

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

JENNER TORRENCE,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

No. 24-258

Filed: September 3, 2024

ORDER

On August 19, 2024, the parties in this military pay case filed a Joint Motion to Remand, requesting the Court remand the case to the Air Force Board for Correction of Military Records (“AFBCMR”). *See* ECF No. 11. The parties agree that remand is warranted because Plaintiff’s claims before the Court, as set forth in paragraphs 39–47 and 52–57 of the Complaint (ECF No. 1), are based on evidence that was not considered by the AFBCMR during its review of Mr. Torrence’s 2021 petition. *Id.* at 2. The parties also request that the Court stay the case pending completion of the remand proceedings. The Court agrees.

Accordingly, the Court adopts the parties’ proposal and **ORDERS** the following:

1. The Court **REMANDS** Plaintiff’s claims to the AFBCMR. The AFBCMR shall:
 - a. Allow Mr. Torrence to submit an application for reconsideration, including the video footage and photographic evidence referenced in paragraphs 39–47 and 52–57 of Mr. Torrence’s Complaint and any other evidence and arguments not previously filed with the AFBCMR;
 - b. Consider Mr. Torrence’s application for reconsideration in accordance with the AFBCMR’s otherwise applicable procedures and powers including, but not limited

to, the Board's power to "hold a hearing or call for additional evidence or opinions" as codified in 32 C.F.R. § 865.2(c); and

- c. Issue a reconsideration decision.
2. Pursuant to Rule 52.2 of the Rules of the United States Court of Federal Claims ("RCFC"), the Court provides the following directions to the parties on remand:
- a. The initial duration of the remand is **180 days**, until **March 3, 2025**. Proceedings in the case are **STAYED** until that date;
 - b. Plaintiff shall submit his application for reconsideration to the AFBCMR within 30 days of this Court's remand order;
 - c. Defendant shall file status reports concerning the progress of the remand proceedings every 90 days, starting from the date of the Court's order remanding the case until the AFBCMR issues a decision;
 - d. The AFBCMR shall promptly forward by email its decision to Plaintiff's counsel of record (stimmons@tullylegal.com; jwilkinson@tullylegal.com) and to counsel of record for the United States (delisa.sanchez@usdoj.gov), and shall forward two copies to the Clerk of the Court as provided by RCFC 52.2(d); and
 - e. The parties shall notify the Court within 30 days of a decision by the AFBCMR on remand and file a post-remand notice as required by RCFC 52.2(e).

A copy of this Order shall be served on the AFBCMR at:

Department of the Air Force
Office of the Assistant Secretary
SAF/MRBC (AFBCMR)
Nicole D. Jackson, Executive Director
3351 Celmers Lane
Joint Base Andrews NAF
Washington, MD 20762-6435

SO ORDERED.

Dated: September 3, 2024

/s/ Kathryn C. Davis
KATHRYN C. DAVIS
Judge